

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

LINDA ARCHIBALD,)
)
)
Plaintiff,)
)
v.) No.: 2:22-cv-2752
)
)
KROGER LIMITED PARTNERSHIP I,)
THE KROGER CO., and JFE FRANCHISING,)
INC. d/b/a SNOWFOX)
)
Defendants.)

**DEFENDANT KROGER LIMITED PARTNERSHIP I AND THE KROGER CO.'S
NOTICE OF REMOVAL**

COME NOW Defendants Kroger Limited Partnership I and The Kroger Co. (collectively, “Kroger Defendants”) and pursuant to 28 U.S.C. § 1446 hereby file this Notice of Removal of the above-styled action from the Circuit Court of Shelby County, Tennessee, Case No. CT-3910-22; Div. II to the United States District Court for the Western District of Tennessee, Western Division, and would show as follows:

1. This action was commenced in the Circuit Court for Shelby County, Tennessee on September 23, 2022, by the filing of a Complaint entitled *Linda Archibald v. Kroger Limited Partnership, The Kroger Co., and JFE Franchising, Inc. d/b/a Snowfox*, No. CT-3910-22; Div. II. A copy of the Complaint is attached hereto as Exhibit A.

2. Defendant Kroger Limited Partnership I was served though its registered agent for service of process, Corporation Service Company, at 2908 Poston Avenue, Nashville, Tennessee 37203 on September 30, 2022. A copy of the Summons and proof of service are attached hereto as Exhibit B.

3. Defendant The Kroger Co. was served though its registered agent for service of process, Corporation Service Company, at 2908 Poston Avenue, Nashville, Tennessee 37203 on September 30, 2022. A copy of the Summons and proofs of service are attached hereto as Exhibit C.

4. This Court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) and 28 U.S.C. §§ 1441 based on the following:

- a. Plaintiff Linda Archibald is a citizen of Shelby County, Tennessee residing in Memphis, Tennessee. Ex. A at ¶ 1.
- b. Defendant the Kroger Co. is an Ohio Corporation with its principal place of business located at 1014 Vine Street, Cincinnati, Ohio 45202. Ex. A at ¶ 2.
- c. Defendant Kroger Limited Partnership I is an Ohio Limited Partnership with its principal place of business located at 1014 Vine Street, Cincinnati, Ohio 454040. Ex. A at ¶ 3. Kroger Limited Partnership I's only general partner is KRGP LLC, an Ohio limited liability company that is 100% owned by Co-Defendant, The Kroger Co. The Kroger Co., an Ohio Corporation, is also the only limited partner of Kroger Limited Partnership I.
- d. Defendant JFE is a Texas Corporation with its principal place of business located at 2021 Bingle Road, Houston, Texas 77055. Ex. A at ¶ 6.
- e. Based upon the allegations pleaded in the state court Complaint, the amount Plaintiff alleges to be in controversy in this action exceeds the sum of \$75,000.00, exclusive of interest and costs. Specifically, Plaintiff has initiated the instant cause of action with a prayer for compensatory damages in an amount not to exceed \$5,000,000.00 and punitive damages in an amount not to exceed \$5,000,000.00. Ex. A at Prayer, ¶

2 and 3. Therefore, original jurisdiction exists in the federal courts under 28 U.S.C. § 1332.

f. This Notice of Removal is timely filed within thirty (30) days of the date Kroger Defendants were served with the first pleading in this action.

g. This action is, therefore, properly removable pursuant to 28 U.S.C. § 1441(a).

5. The Kroger Defendants' "Notice of Filing of Notice of Removal," notifying the Shelby County Circuit Court of this "Notice of Removal," will be promptly filed with the Clerk of the Circuit Court for Shelby County, Tennessee. A copy of the Notice of Filing Notice of Removal is attached hereto as Exhibit D.

6. By removing this action from Shelby County Circuit Court, the Kroger Defendants do not waive any defense available. Similarly, the Kroger Defendants do not admit any of the allegations in Plaintiff's Complaint.

7. The other named Defendant, JFE Franchising Inc., through counsel, has been consulted and consents to removal. That Defendant was served on October 5, 2022. A copy of that summons and proof of service is attached hereto as Exhibit E.

WHEREFORE, Kroger Defendants respectfully request that this case proceed before this honorable Court as an action properly removed.

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

s/ Mary Wu Tullis

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*Counsel for Defendants Kroger Limited
Partnership I and The Kroger Co.*

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October 2022, a true and correct copy of the foregoing will be served via the Court's electronic notification system, upon the following:

Julian T. Bolton
119 South Main Street, Suite 500
Memphis, Tennessee 38103
Attorney for Plaintiff

Kirk A. Caraway
80 Monroe Avenue, Suite 650
Memphis, Tennessee 38103
Attorney for Co-Defendant JFE

s/ Mary Wu Tullis
Mary Wu Tullis